

Filed for intro on 03/01/2000

SENATE BILL 3279

By Williams

AN ACT to amend Chapter 210 of the Acts of 1907; as amended by Chapter 72 of the Private Acts of 1915 and Chapter 49 of the Private Acts of 1989; and any other acts amendatory thereto, relative to the charter of the Town of Cumberland Gap.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 210 of the Acts of 1907; as amended by Chapter 72 of the Private Acts of 1915 and Chapter 49 of the Private Acts of 1989; and any other acts amendatory thereto, being the charter of the Town of Cumberland Gap, is amended by deleting such charter in its entirety, except for the section in which the stated boundaries of the Town are established, and by substituting Sections 2 through 11 of this act to be the charter of the Town of Cumberland Gap.

SECTION 2. GENERAL POWERS

The Town of Cumberland Gap shall have perpetual succession; may sue and be sued, may contract and be contracted with, implead and be impleaded in all the courts of law and equity, and in all actions whatsoever; may purchase, receive, and hold property, real and

personal, to be used for Town purposes; may sell, lease, or dispose of such property for the benefit of the Town; and may have and use a common seal.

The boundaries of the Town shall be as described in Chapter 72 of the Private Acts of 1915, as amended, or enlarged through annexation or other acquisitions.

SECTION 3. ELECTIVE OFFICERS

The officers of the Town of Cumberland Gap, to be chosen by the people, shall be a Mayor and Board of Aldermen, constituting the Town Council or Council, each and all of whom shall be citizens of and voters in said Town. The Board of Aldermen shall consist of six (6) members chosen by the qualified voters of such Town, and they shall hold their offices for a term of four (4) years. The Mayor shall also hold office for four (4) years. No person shall be an Alderman unless such person is at the time of election, and has been for six (6) months preceding, a bona fide resident of such Town. Any member of the Town Council removing from the Town after such member's election shall thereby vacate such member's office.

SECTION 4. OTHER OFFICERS; ELECTIONS; COMPENSATION OF ALL OFFICERS

The Council may appoint the same person as Recorder and Treasurer. The Town Council shall also fix the compensation of such employees and agents. The Council shall also have the authority to ratify any suspension or termination of employees by the Mayor. The Town Council shall also fix the salaries of the Mayor and Board of Aldermen to be chosen for the next term.

SECTION 5. GENERAL ORDINANCE POWERS ENUMERATED

The Town Council shall have power, by ordinance within the Town, to:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for State, County or Town purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the Town, upon the credit of the Town or solely upon the credit of specific property owned by the Town or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the Town, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the Town for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the Town or State;

(9) Condemn property or any easement, interest, or estate or use therein, either within or without the Town, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of state law, or in any other manner provided by law;

(10) Take and hold property within or without the Town or State upon trust; and administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the Town, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the state law;

(12) Grant to any person, firm, association or corporation (including the Town) franchises for public utilities and public services to be furnished the Town and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the Town itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The Council may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the Town limits at the date of the franchises, and as the Town limits may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the Town and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The Council may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the Town limits of the Town at the date of the contract, and as the Town limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any

of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the Town limits, regulate their use within the Town limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions of state law or any other manner provided by general law;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the Town limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways, avenues or alleys under, and as provided by, state law or any other manner provided by general law;

(17) Assess against abutting property within the Town limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as they may be provided by general law or by ordinance of the Council;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection,

regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the Town, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Unless inspected, tested measured and weighed by the State or federal government, inspect, test, measure and weigh any article for consumption or use within the Town, and charge reasonable fees therefor, and provide standards of weights, tests and measures in accordance with the requirements established by general law;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a Town jail for the confinement and detention of any person who in the Town court has been found guilty of violating the laws and ordinances of the Town, or contract with the county to keep such persons in the workhouse of the county;

(28)

(A) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction.

(B) No civil penalty may exceed five hundred dollars (\$500.00) for any one (1) offense;

(29) Establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the Town;

(30) Regulate, tax, license or suppress the keeping or going at large of animals within the Town, impound them, and in default of redemption, sell or kill them;

(31) Call elections as herein provided; and

(32) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

SECTION 6. ELECTIONS

The terms of office of the Mayor and Aldermen elected in the October, 1998 election for a term of two (2) years shall be extended to a date coinciding with the general state election held on the first Tuesday after the first Monday in November, 2000. At the election held on the first Tuesday after the first Monday in November, 2000 the Mayor shall be elected for a term of four (4) years, the three (3) Aldermen receiving the highest number of votes shall be elected for a term of four (4) years, and the three (3) remaining Aldermen shall be elected for a term of two (2) years, or until their successors are elected and qualified. Thereafter the date of the Town

election shall be every two (2) years on the first Tuesday after the first Monday in November of even-numbered years, such date coinciding with the general state election, and the Mayor and Aldermen elected at these elections shall be elected for four (4) year terms of office, or until their successors are elected and qualified. The following shall be the qualifications for voting in Town elections:

(1) Each elector shall be qualified to vote for State and County offices.

(2) Each elector shall be a resident of Cumberland Gap or otherwise be entitled to vote in the general elections of the State and County.

SECTION 7. STATE ELECTION LAWS TO APPLY

The persons appointed to hold the elections shall be sworn and qualified according to the election laws of this State, and such elections shall be conducted in all respects as are all the various State and County elections by virtue of the election laws of this State.

SECTION 8. QUORUM OF TOWN COUNCIL; FILLING VACANCIES; OATHS OF OFFICE

A majority of the Town Council shall constitute a quorum to do business. If the Mayor or any of the Aldermen of the Town should die, resign, move out of the Town limits, or otherwise vacate their office, the vacancy thus created shall be filled by the Council at its next meeting, or as soon thereafter as possible. If less than two (2) years remain in the vacant term of office then the Council shall fill the vacancy by appointment. If more than two (2) years remain in the vacant term of office then the Council shall fill the vacancy by appointment until the next regularly scheduled Town election, at which time a successor shall be elected to fill the remaining two (2) years in the term of office. The person or persons appointed or elected to fill a vacancy in office shall perform the same duties and be vested with the same powers and privileges as the person whose duties they are appointed to fill. The Mayor and Aldermen and all other officers of the Town shall respectively take an oath before entering upon the duties of their offices to execute the same faithfully and impartially; and the Mayor and Aldermen shall

also take an oath to support the Constitution of the United States and of the State of Tennessee.

SECTION 9. MAYOR'S TERM, QUALIFICATIONS, DUTIES, AND VETO POWER

The Mayor shall hold office for four (4) years, and until a successor shall be elected and qualified. No person shall be elected Mayor who is not at the time of the election a citizen of the State of Tennessee, and has not been for six (6) months, and is not at that time a bona fide citizen and voter in said Town. It shall be the duty of the Mayor to preside at all meetings of the Council. Unless otherwise designated by the Council by ordinance, the Mayor shall have authority to employ, promote and discipline employees. In addition, the Mayor may suspend and discharge all employees subject to the ratification of the majority of the council at a meeting no later than ten (10) days after such action. The Mayor shall vote in cases where there is a tie vote. All ordinances or resolutions shall be approved and signed by the Mayor on or before the next meeting of the Council, and the Mayor shall have veto power. If the Mayor should refuse to approve any ordinance or resolution, the Mayor shall return same to the Council at its next meeting, with the reasons for refusal in writing; and in such case such ordinance or resolution shall not be valid, unless the Council by a two-thirds (2/3) vote pass the same over the Mayor's veto; but if the Mayor does not veto same as provided, it shall be valid without the Mayor's signature. The Mayor shall also take care that all the ordinances of the Town are duly enforced, respected, and observed within the Town limits; shall call special sessions of the Council when such is deemed expedient, and shall perform such other duties as the Council may by ordinance or otherwise impose.

SECTION 10. TOWN COURT

A Town Court is hereby established and granted jurisdiction over all infractions of municipal ordinances of the Town of Cumberland Gap. The Town Judge shall be appointed by the Town Council at the first regular meeting in January following the regular Town election in November of each even-numbered year and shall serve until the first regular meeting in January

following the next general Town election or until a successor is appointed and has taken the oath of office. Qualifications for the Town Judge shall be established by ordinance by the Town Council. The Town Judge shall be eligible for re-appointment. The Judge shall take the same oath required of the Town Council. The Town Council shall establish the compensation of the Town Judge by ordinance. The Town Judge shall not be eligible to hold elective offices for the Town of Cumberland Gap. The Town Judge shall try all persons charged with violation of the ordinances of the Town. The Judge shall have the power to levy fines, civil penalties and forfeitures in accordance with such offense and to impose such costs as the Town Council may by ordinance provide, to issue all necessary process, to administer oaths, and to punish for civil contempt. The policies and procedures governing the day-to-day operations of the court shall be provided by ordinance. The Town Judge shall be the exclusive judge of the law and facts in every case before such judge, and no official or employee of the Town shall attempt to influence the Judge's decision except through pertinent facts presented in court.

SECTION 11. RECORDER AND TREASURER'S DUTIES: ASSESSMENT AND COLLECTION OF TAXES

The Treasurer shall receive, receipt for, and be the custodian of all the moneys of the Town received from any source whatever. The Treasurer shall receive all of the taxes, fines, and other moneys belonging to the Town from all sources, and shall make settlement for same, and pay out all sums ordered paid by the Mayor under the directions and orders of the Council, and for this and other purposes the Treasurer shall be the bookkeeper of the Town, and shall keep such books as the Council may direct. The Treasurer shall make as many reports and statements monthly or quarterly as the Council may direct. The Treasurer shall give bond, with good sureties, payable to the Mayor and Aldermen of the Town of Cumberland Gap, and in such amount as may be prescribed by ordinance or resolution for the faithful discharge of the duties of office, and shall perform such other duties as the Council may direct. The Treasurer shall prepare each year, as soon as the State and County books are completed, a tax book

embracing all property, real and personal, within the Town limits subject to taxation under the laws of the State, observing in making said assessments the values fixed by the Tax Assessor of Claiborne County; and the Treasurer is hereby vested with the powers conferred by law on the collectors of State and County taxes to collect same, and lands shall be condemned and sold for failure to pay taxes in accordance with the laws of the State for State and County purposes. The Mayor and Council shall by ordinance fix the mode of collecting delinquent or back taxes in the manner provided in general law. The Treasurer shall issue all licenses for privileges and collect all privileges and ad valorem taxes growing out thereof. The Treasurer shall keep the minutes of the Council.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Town Council of the Town of Cumberland Gap. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 12.